IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

COMPANY APPLICATION NO. 78 OF 2005
IN
COMPANY PETITION NO. 182 OF 2001

Simplex Concrete Piles India Ltd. ... Applicants.

V/s.

Delta Mechcons (I) Ltd. ... Respondents.

....

Mr. Saran Jagtiani with Aditya Khanaa i/b.Khaitan & Co. for the Applicant
None for the Respondent.

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CORAM : DR. D.Y.CHANDRACHUD,J.

26th April 2007.

P.C. :

. The first set of Consent terms were initially filed in the Company Petition for winding up under which the Company agreed to pay an amount of Rs.45 lakhs in settlement of the dues of the Applicant. Upon a breach of those terms, the Company Petition stood admitted. The Company Application was taken out for appointment of a Provisional Liquidator. Thereupon, a fresh set of Consent terms came to be arrived at between the parties on 12th July 2005, Under which, the company handed over 5 post dated cheques in the total amount of Rs.29.50 lakhs to

the Petitioner. An affidavit dated 24th April 2007 has been filed stating that the last 3 cheques in the total sum of Rs.18/- lakhs have been dishonoured. Clause 3 of the Consent terms contemplates that in the event of default, the Petitioner would be at liberty to move this Court for the appointment of a Liquidator.

2. The Respondent has not filed any reply thought it has been served. The facts as they have been revealed before the Court demonstrate that the Company is unable to pay its debts. This is a fit and proper case for the appointment of a Provisional Liquidator.

3. The Company Application is accordingly made absolute in terms of prayer clause (a). Until the Liquidator takes charge, there shall be an order of injunction in terms of prayer clause (b), save and accept for the bracketed portion viz. the words "dealing with or".